

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SAVOYR WEDDINGTON,

Plaintiff,

18-cv-10055 (PKC)

-against-

ORDER

SENTRY INDUSTRIES, INC.,

Defendant.
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CASTEL, U.S.D.J.

The Court has reviewed the submissions of Mr. Haworth, Mr. Rosenberg and the law firm of Haworth Barber & Gerstman, LLC (the “Respondents”). In his response to the October 22, 2019 Opinion and Order, Mr. Hayworth states as follows:

Lastly, I request that if upon reviewing this Declaration and the other papers submitted in opposition to the Court’s Order to Show Cause the Court is unpersuaded as to the opposition set forth herein or has additional questions, that I be permitted to appear before the Court in person for the purpose of oral argument and an opportunity to personally respond to all questions.

(Hayworth Decl. ¶54.)

Without expressing any view on the merits of the sanctions issue, the Court will afford the Respondents, the opportunity for an evidentiary hearing on December 4, 2019 at 2 p.m. in Courtroom 11D, 500 Pearl St., New York, NY. If any Respondent wishes to avail himself or itself of this opportunity, he or it shall file a letter by November 25, 2019 identifying the witness or witnesses who the Respondent intends to call.

Mr. Hayworth has submitted a redacted communication between himself and Mr. Rosenberg bearing on the substance of the representation (Hayworth Decl., Ex. B) and has summarized the content of an email to Mr. Rosenberg and the content of his time sheets. (E.g. Hayworth Decl. ¶¶ 35,42.) Mr. Rosenberg has annexed a communication with a Texas law firm, who he believed to be counsel for the defendant, regarding the motion (Rosenberg Decl., Exs. B & C).

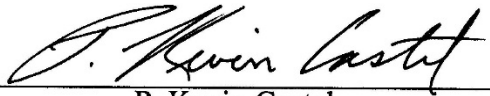
In view of these selective disclosures, Respondents shall produce by November 25, 2019 all documents concerning their representation of defendant from October 31, 2018 through May 31, 2019, including (1) any communications between Mr. Hayworth and Mr. Rosenberg, or between either of them and Hanover Insurance Company; (2) any research or factual inquiry done as to the truth of the allegation in paragraph 1.2 of the First Amended Complaint, alleging the state of incorporation or principal place of business of the defendant in this action, including accessing the websites of the Secretaries of State of New York and Texas; (3) any correspondence and filings in the possession of any Respondent relating to the Texas litigation; and (4) any time sheets of Mr. Hayworth and Mr. Rosenberg.¹

Finally, the Court's October 16, 2019 Opinion and Order is supplemented as follows: Let Scott Haworth and the law firm of Haworth Barber & Gerstman, LLC show cause in writing by November 25, 2019 why it should not be sanctioned under Rule 11, Fed. R. Civ. P., and the inherent power of the Court for presenting to the Court a letter signed by Mr. Haworth and dated February 12, 2019, filed on the Court's Electronic Case Filing System as a "Letter Motion" (Doc 16): (1) falsely asserting that the defendant corporation described in the First Amended Complaint ("FAC") was non-diverse from plaintiff because both were Texas citizens;

¹ The definitions in Local Civil Rule 26.3 apply.

(2) presenting to the Court as Exhibit G an excerpt from the website of the Texas Secretary of State in an effort to deceive the Court into believing that the defendant named in the FAC is a Texas corporation when in truth it is a New York corporation located at the address alleged in the FAC; (3) representing that defendant “has been an active, registered domestic corporation within the State of Texas since August 25, 1998. . . .” and (4) asserting that venue is improper in this District implicitly because the requirements of 28 U.S.C. §1391 are not satisfied.

SO ORDERED.


P. Kevin Castel
United States District Judge

Dated: New York, New York
November 12, 2019